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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/675,694	09/29/2000	Manav Mishra	42390P9326	1491

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EXAMINER	
LAZARO, DAVID R	

ART UNIT	PAPER NUMBER
2155	8

DATE MAILED: 04/22/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No	Applicant(s)	
	09/675,694	MISHRA ET AL.	
	Examiner	Art Unit	
	David Lazaro	2155	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *20 February 2004*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-25* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-25* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *29 September 2000* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

1. This Office Action is in response to the amendment filed on 02/20/04.

2. Claims 2, 3, 11 and 25 were amended.

3. Claims 1-25 are pending in this Office Action.

4. The objection to the Specification is withdrawn.

5. The objection to the Drawings is withdrawn.

6. The objection to Claim 25 is withdrawn.

7. The 35 U.S.C. §112, second paragraph, rejections of Claim 2 and 11 are withdrawn.

Response to Amendment

8. The declaration filed on 02/20/04 under 37 CFR 1.131 has been considered but is ineffective to overcome the U.S. Provisional Application No. 60/188,142 (Swildens) reference because of the following reasons:

a. First: On Page 1 of the declaration, under number 2, the Applicant declares the invention claimed had been conceived and reduced to practice in the United States prior to March 10, 2000. On Page 2 under numbers 3 and 4, the Applicant then declares diligence was employed to constructively reduce the invention to practice and further attaches Exhibit A to establish conception prior to March 10, 2000. Because of this, the Applicant has not made it entirely clear as to how they are trying to establish prior inventorship. See MPEP 715.07 'THREE WAYS TO SHOW PRIOR INVENTORSHIP'.

b. Second: Diligence has not been shown based on Page 2, numerals 3 and 4. MPEP 715.07, 'GENERAL REQUIREMENTS' states, "*A general allegation that the invention was completed prior to the date of the reference is not sufficient*". MPEP 715.07(a) further states, "*Where conception occurs prior to the date of the reference, but reduction to practice is afterward, it is not enough merely to allege that applicant or patent owner had been diligent...Rather, applicant must show evidence of facts establishing diligence.*"

c. Third: In regards to Exhibit A establishing conception of the claimed subject matter in the United States prior to March 10, 2000, the applicant has failed to clearly explain and point out what facts are established and relied on by applicant. MPEP 715.07, 'GENERAL REQUIREMENTS' states "*FACTS, not conclusions, must be alleged*," and "*Vague and general statements in broad terms about what the exhibits describe along with a general assertion that the exhibits describe reduction to practice "amounts essentially to mere pleading, unsupported by proof or a showing of facts" and, thus, does not satisfy the requirements of 37 CFR 1.131(b)...Applicant must give a clear explanation of the exhibits pointing out exactly what facts are established and relied on by applicant.*" For instance, what facts are relied on to established the limitation in Claim 1 "assigning a unique I.D. to the first request." Exhibit A also contains handwritten notations and marking not commented on by the Applicant. It is not made clear who made these handwritten marks and if they were also made prior to March 10, 2000.

d. Fourth: All inventors did not sign the declaration. MPEP 715.04 states the following:

"The following parties may make an affidavit or declaration under 37 CFR 1.131:
(A) All the inventors of the subject matter claimed.
(B) An affidavit or declaration by less than all named inventors of an application is accepted where it is shown that less than all named inventors of an application invented the subject matter of the claim or claims under rejection. For example, one of two joint inventors is accepted where it is shown that one of the joint inventors is the sole inventor of the claim or claims under rejection.
(C) A party qualified under 37 CFR 1.42, 1.43, or 1.47 in situation where some or all of the inventors are not available or not capable of joining in the filing of the application.
(D) The assignee or other party in interest when it is not possible to produce the affidavit or declaration of the inventor. Ex parte Foster, 1903 C.D. 213, 105 O.G. 261 (Comm'r Pat. 1903).
Affidavits or declarations to overcome a rejection of a claim or claims must be made by the inventor or inventors of the subject matter of the rejected claim(s), a party qualified under 37 CFR 1.42, 1.43, or 1.47, or the assignee or other party in interest when it is not possible to produce the affidavit or declaration of the inventor(s). Thus, where all of the named inventors of a pending application are not inventors of every claim of the application, any affidavit under 37 CFR 1.131 could be signed by only the inventor(s) of the subject matter of the rejected claims."

Since Swildens is used as a 102(e) reference for Claims 1-18 and 22-25 and as the primary reference for the 103(a) rejection for Claims 19-21, the "claims under rejection" in regards to the submitted declaration are all the claims of the instant application. Therefore all inventors must sign the declaration since it cannot be shown that "one of the joint inventors is the sole inventor of the claim or claims under rejection." Please see 37 CFR 1.42, 1.43, or 1.47 if an inventor is not available.

Claim Rejections - 35 USC § 102

9. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

10. Claims 1-18 and 22-25 are rejected under 35 U.S.C. 102(e) as being anticipated by U.S. Provisional application 60/188,142 by Swildens (Swildens). Note that the Non-Provisional Patent Application 2001/0034792 contains the same information as the provisional application noted above and will therefore be cited instead. A copy of both will be included with this office action.

11. With respect to Claim 1, Swildens teaches a method comprising: receiving a first request comprising a session identifier (I.D.) (Page 1, [0021] lines 1-3, Note that a Session I.D. is inherent in the SSL protocol), assigning a unique I.D. to the first request (Page 6, [0137]) selecting one of a plurality of servers to process the first request (Page 1, [0018] lines 4-7 and Page 7 [0148] lines 6-10) assigning the unique I.D. to the selected server (Page 6 [0137] and [0139]) and sending the first request to the server (Page 7 [0148] lines 6-10).

12. Note that in Swildens, a cookie or session ID can be used (Page 1 [0021] and Page 6 [0135]), and accordingly, all Claims will be examined from the viewpoint of using a session ID.

13. With respect to Claim 2, Swildens teaches all the limitations of Claim 1 and further teaches subsequently receiving a second request comprising the session I.D. (Page 6 [0139] lines 1-2); selecting the server that the session I.D. is assigned to (Page 6 [0139] lines 2-3); and sending the second request to the server (Page 6 [0139] lines 2-3).

14. With respect to Claim 3, Swildens teaches all the limitations of Claim 1 and further teaches selecting one of a plurality of servers to process the first request comprises using a load balancing algorithm to determine a server to the first request to (Page 7 [148] lines 6-10).

15. With respect to Claim 4, Swildens teaches a method comprising receiving a first request comprising a session identifier (I.D.) (Page 1, [0021] lines 1-3, Note that a Session I.D. is inherent in the SSL protocol); selecting one of a plurality of servers to process the first request (Page 7 [148] lines 6-10); mapping the session I.D. to the selected server (Page 6, [0137]); sending the first request to the selected server (Page 7 [0148] lines 6-10); subsequently receiving a second request comprising the session I.D. (Page 6 [0139] lines 1-2); determining that the second request comprises secure information (Page 5 [0107]); selecting the server that the session I.D. is assigned to (Page 6 [0139] lines 2-3); and sending the second request to the server (Page 6 [0139] lines 2-3).

16. With respect to Claim 5, Swildens teaches all the limitations of Claim 4 and further teaches the server is identified by an SSL (Secure Sockets Layer) context (Page 1 [0021] lines 5-7 and Page 6 [0125] and [0137] lines 1-4).

17. With respect to Claim 6, Swildens teaches all the limitations of Claim 4 and further teaches selecting one of a plurality of servers to process the first request comprises using a load balancing algorithm to determine a server to route the first request to (Page 7 [0148] lines 6-10).

18. With respect to Claim 7, Swildens teaches all the limitations of Claim 4 and further teaches determining that the second request comprises non-secure information (Page 1

[0009] lines 3-5); and using a load balancing algorithm to determine a server to route the second request to (Page 2 [0046] lines 11-20).

19. With respect to Claim 8, Swildens teaches a method comprising receiving a first request comprising a session identifier (I.D.) (Page 1, [0021] lines 1-3, Note that a Session I.D. is inherent in the SSL protocol); selecting one of a plurality of servers to process the first request (Page 7 [0148] lines 6-10), the server having a unique SSL (Secure Socket Layer) context, and the unique SSL context being associated with an SSL tunnel (Page 1 [0021] lines 5-7 and Page 6 [0125] and [0137] lines 1-4).; mapping the session I.D. to the selected SSL context (Page 6, [0137]); sending the first request to the selected server (Page 7 [0148] lines 6-10); subsequently receiving a second request comprising the session I.D. (Page 6 [0139] lines 1-2); determining that the second request comprises secure information (Page 5 [0107]); selecting the SSL context that the session I.D. is assigned to and sending the second request to the server via the SSL tunnel associated with the SSL context (Page 6 [0139] lines 1-4).

20. With respect to Claim 9, Swildens teaches all the limitations of Claim 8 and further teaches selecting one of a plurality of servers to process the first request comprises using a load balancing algorithm to determine a server to route the first request to (Page 7 [0148] lines 6-10).

21. With respect to Claim 10, Swildens teaches all the limitations of Claim 8 and further teaches determining that the second request comprises non-secure information (Page 1 [0009] lines 3-5); and using a load balancing algorithm to determine a server to route the second request to (Page 2 [0046] lines 11-20).

22. With respect to Claim 11, Swildens teaches a method comprising receiving a request comprising a session identifier (I.D.) (Page 1, [0021] lines 1-3, Note that a Session I.D. is inherent in the SSL protocol); determining if the session I.D. is associated with an SSL (Secure Sockets Layer) context (Page 6 [139]); determining if the request is associated with a secure transaction (Page 5 [0107]); if no session I.D. is associated with an SSL context, then selecting one of a plurality of servers to process the first request (Page 7 [0148] lines 6-10), the server having a unique SSL (Secure Socket Layer) context, and the unique SSL context being associated with an SSL tunnel (Page 1 [0021] lines 5-7 and Page 6 [0125] and [0137] lines 1-4); and if the request is associated with a secure transaction, then: mapping the session I.D. to the selected SSL context (Page 6 [137]); and sending the second request to the server via the SSL tunnel associated with the SSL context (Page 6 [139]).

23. With respect to Claim 12, Swildens teaches all the limitations of Claim 11 and further teaches selecting one of a plurality of servers to process the first request comprises using a load balancing algorithm to determine a server to route the first request to (Page 7 [0148] lines 6-10).

24. With respect to Claim 13, Swildens teaches all the limitations of Claim 11 and further teaches determining if the request is associated with a secure transaction comprises determining if an SSL packet is associated with the request (Page 5 [0107]).

25. With respect to Claim 14, Swildens teaches all the limitations of Claim 11 and further teaches determining if the session I.D. is associated with an SSL (Secure Sockets Layer) context comprises looking up the session I.D. in a mapping table to determine if the

mapping table comprises an entry for the session I.D. and a corresponding SSL context (Page 6 [0139]).

26. With respect to Claim 15, Swildens teaches a system comprising a dispatching processor unit to receive a first request comprising a unique session identifier (I.D.) (Page 1, [0021] lines 1-3, Note that a Session I.D. is inherent in the SSL protocol); select a server from a plurality of servers to process the request (Page 7 [0148] lines 6-10); assign the unique session I.D. to the selected server (Page 6 [0137]), and store the unique session I.D. and corresponding identifier for the selected server in a mapping table comprising entries of session I.D.s each having a corresponding server identifier (Page 7 [0142] Note: One embodiment of Swildens' invention has the mapping table on the system.); send the first request to the selected server (Page 7 [0148] lines 6-10); receive a second request comprising the unique session I.D. (Page 6 [0139] lines 1-2); find the unique session I.D. in the mapping table; and send the second request to the server corresponding to the unique session I.D. in the mapping table (Page 6 [0139] lines 1-4).

27. With respect to Claim 16, Swildens teaches all the limitations of Claim 15 and further teaches a preexisting SSL (Secure Sockets Layer) tunnel exists between the dispatching processor unit and the selected server (Page 1 [0021] lines 5-7, Page 6 [0135] lines 1-3), the SSL tunnel being identified by an SSL context (Page 6 [0137] lines 2-4), and the mapping table comprising entries of session I.D.s each having a corresponding SSL context (Page 7 [0142] Note: One embodiment of Swildens' invention has the mapping table on the system.).

28. With respect to Claim 17, Swildens teaches all the limitations of Claim 15 and further teaches the dispatching processing unit selects one of a plurality of servers to process the

request by using a load balancing algorithm to determine a server to route the request to (Page 7 [0148] lines 6-10).

29. With respect to Claim 18, Swildens teaches all the limitations of Claim 17 and further teaches the dispatching processing unit uses a load balancing algorithm to determine a server to route the request to by employing a load balancer (Page 7 [0148] lines 6-10).

30. With respect to Claim 22, Swildens teaches a machine-readable medium having stored thereon data representing sequences of instructions, the sequences of instructions which, when executed by a processor, cause the processor to perform the following: receive a first request comprising a session identifier (I.D.) (Page 1, [0021] lines 1-3, Note that a Session I.D. is inherent in the SSL protocol); select one of a plurality of servers to process the first request (Page 1, [0018] lines 4-7 and Page 7 [0148] lines 6-10); map the session I.D. to the selected server(Page 6, [0137]); send the first request to the selected server (Page 7 [0148] lines 6-10); subsequently receive a second request comprising the session I.D. (Page 6 [0139] lines 1-2); determine that the second request comprises secure information (Page 5 [0107]); select the server that the session I.D. is assigned to; and send the second request to the server (Page 6 [0139] lines 1-4).

31. With respect to Claim 23, Swildens teaches all the limitations of Claim 22 and further teaches the server is identified by an SSL (Secure Sockets Layer) context (Page 1 [0021] lines 5-7 and Page 6 [0125] and [0137] lines 1-4).

32. With respect to Claim 24, Swildens teaches all the limitations of Claim 22 and further teaches the processor selects one of a plurality of servers to process the request by using a load balancing algorithm to determine a server to route the request to (Page 7 [0148] lines 6-10).

33. With respect to Claim 25, Swildens teaches all the limitations of Claim 22 and further teaches the processor to additionally determine that the second request comprises non-secure information (Page 1 [0009] lines 3-5); and use a load balancing algorithm to determine a server to route the second request to (Page 2 [0046] lines 11-20).

Claim Rejections - 35 USC § 103

34. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

35. Claims 19-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Swildens in view of U.S. Patent 6,505,250 by Freund et al. (Freund).

36. With respect to Claim 19, Swildens teaches a system comprising a dispatching processor unit to send client requests to a plurality of servers in a server farm (Page 1 [0020] lines 2-3); receive a client request comprising a session identifier (I.D.); determine if state information associated with the session I.D. already exists on one of a plurality of servers in the server farm (Page 6 [0139] lines 1-2); send the client request to the server if the state information already exists on a server (Page 6 [0139] lines 1-4); and employ a load balancer to determine one of the servers to send the client request to if the state information does not already exist on a server (Page 7 [0148] lines 6-10); a load balancer in communication with the dispatching processor unit to determine one of a plurality of servers to send the client request to (Page 7 [0148] lines 6-10). Swildens does not teach the use of a manager to determine which request of multiple client requests to the same server is processed first. However, it is well known in the art that requests being sent to the same server can be processed as decided by a quality of service manager as shown by Freund

(Col. 4 line 66 to Col. 5 line 11). It would have been obvious to one of ordinary skill in the art at the time the invention was made to take the system disclosed by Swildens and modify it as indicated by Freund with the system comprising a quality of service (QoS) manager in communication with the dispatching processor unit to decide which one of multiple client requests is processed if multiple client requests are sent to the same server. One would be motivated to have this so that important client requests can be handled before those that are not as important (Col. 3 lines 9-11 of Freund).

37. With respect to Claim 20, Swildens in view of Freund teaches all the limitations of Claim 19 and further teaches the dispatching processor unit determines if state information associated with the session I.D. already exists on one of a plurality of servers in a server farm by searching a mapping table comprising a session I.D. mapped to a server (Page 7 [0142] Note: One embodiment of Swildens' invention has the mapping table on the system.).

38. With respect to Claim 21, Swildens in view of Freund teaches all the limitations of Claim 19 and further teaches the session I.D. is mapped to a server by the session I.D. being associated with an SSL (Secure Sockets Layer) context (Page 7 [0142]), and the SSL context is associated with the server (Page 1 [0021] lines 5-7 and Page 6 [0125] and [0137] lines 1-4).

Response to Arguments

39. Applicant's arguments filed 02/20/04 have been fully considered but they are not persuasive. See 'Response to Amendment' section above.

Conclusion

40. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to David Lazaro whose telephone number is 703-305-4868. The examiner can normally be reached on 8:30-5:00 M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Hosain Alam can be reached on 703-308-6662. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

David Lazaro
April 19, 2004

HOSAIN ALAM
SUPERVISORY PATENT EXAMINER